

1990 No. 945 (S.121)

PUBLIC HEALTH, SCOTLAND

The Control of Pollution (Clyde River Purification Board Act 1972) Amendment Order 1990

<i>Made</i>	<i>19th April 1990</i>
<i>Laid before Parliament</i>	<i>1st May 1990</i>
<i>Coming into force</i>	<i>22nd May 1990</i>

The Secretary of State, in exercise of the powers conferred on him by sections 104(1) and 108(3) of the Control of Pollution Act 1974(a) and of all other powers enabling him in that behalf, hereby makes the following Order:

Citation and commencement

1. This Order may be cited as the Control of Pollution (Clyde River Purification Board Act 1972) Amendment Order 1990 and shall come into force on 22nd May 1990.

Interpretation

2. In this Order—

“the Act” means the Control of Pollution Act 1974;

“the 1972 Act” means the Clyde River Purification Board Act 1972(b);

“the Board” means the Clyde River Purification Board established under section 135 of the Local Government (Scotland) Act 1973(c), the River Purification Board Areas (Scotland) Order 1975(d) and the Clyde River Purification Board (Establishment) Order 1975(e);

“the operative date” means the date of coming into force of this Order; and

“underground strata” means strata subjacent to the surface of any land.

Existing consents for discharges in or to underground strata

3.—(1) Any consent for discharges in or to underground strata granted by the Board under section 3 of the 1972 Act which is in force at the operative date shall have effect for the purposes of Part II of the Act(f) as if given in pursuance of section 34(2) thereof.

(2) Any conditions to which such a consent was subject under section 3(2) of the 1972 Act shall have effect for the purposes of Part II of the Act as if attached to the consent in pursuance of section 34(2) and (4) thereof.

(a) 1974 c. 40.

(b) 1972 c.v.

(c) 1973 c. 65.

(d) S.I. 1975/231.

(e) S.I. 1975/232, as amended by S.I. 1989/59.

(f) Part II of the Control of Pollution Act 1974 was amended by the Water Act 1989 (c. 15), Schedule 23, paragraphs 4, 5 and 6.

Pending applications for consent

4. An application for a consent under section 3 of the 1972 Act which is pending immediately before the operative date shall be treated on and after that date as an application for consent in pursuance of section 34 of the Act which was made on the day on which it was actually made.

Amendment of the 1972 Act

5.—(1) The 1972 Act shall be amended in accordance with the following paragraphs of this article.

(2) In section 2(1) the definition of “underground strata” shall be deleted.

(3) In section 9—

(i) for subsection (2)(a) there shall be substituted the following paragraph:

“(a) if within the period of three months beginning with the date on which an application is made to the Board for consent under this section or within such extended period as may at any time be agreed upon in writing between the applicant and the Board, the Board do not give notice to the applicant of their decision on the application, the Board’s consent shall be deemed to be granted unconditionally at the expiration of that period.”;

(ii) for subsection (2)(b) there shall be substituted the following paragraph:—

“(b) the provisions of sections 39 and 96 of the Control of Pollution Act 1974 shall apply (with necessary modifications) to the grant of consents, subject to conditions, or the refusal of consents, under this section as those provisions apply to the questions mentioned in section 39(1) of the said Act.”;

(iii) after subsection (2) there shall be inserted the following subsection:—

“(2A) Any person who contravenes subsection (1) of this section shall be guilty of an offence, and section 32(7) of the Control of Pollution Act 1974 (which relates to penalties and proceedings for an offence under section 32(1) of that Act) shall apply with respect to any offence under this section as it applies with respect to any offence under section 32(1) of that Act.”.

(4) In section 16(2) the words “Section 3 (Control of discharges in or to underground strata);” shall be deleted.

Repeal

6. Sections 3, 4, 5, 6, 7, 13 and 14 of the 1972 Act are hereby repealed.

St. Andrew’s House, Edinburgh
19th April 1990

James Douglas-Hamilton
Parliamentary Under Secretary of State,
Scottish Office

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision to bring within Part II of the Control of Pollution Act 1974 the consents granted by the Clyde River Purification Board under section 3 of the Clyde River Purification Board Act 1972 ("the 1972 Act") for discharge of trade or sewage effluent or any other poisonous, noxious or polluting matter to underground strata.

Article 3 translates existing consents into consents given in pursuance of section 34 of the Control of Pollution Act 1974. Article 4 makes transitional provision for any applications under the 1972 Act which are pending at the date this Order comes into force.

Article 5 makes amendments to the 1972 Act which are consequential on repeal of the provisions relating to underground strata (article 6).